IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 10462 of 2005(U)

PETITIONER:

P.A.JOSY, S/O.ANTHAPPAN,
PALAKKATHARA HOUSE, KATHRUKADAVU,
KOCHI-17.

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENTS:

1. CELINE JOSEPH, W/O.LATE JOSEPH,
CHELLATH ANJIPARAMBIL HOUSE,
ELAMKULAM.

2. A.M.MATHEW, S/O.LATE JOSEPH,
CHELLATH ANJIPARAMBIL HOUSE,
ELAMKULAM.

3. SABU THOMAS, S/O.LATE JOSEPH,
CHELLATH ANJIPARAMBIL HOUSE,
ELAMKULAM.

4. SALU JOSEPH, S/O.LATE JOSEPH,
CHELLATH ANJIPARAMBIL HOUSE,
ELAMKULAM.

BY ADV. SRI.SREELAL N.WARRIER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.10462/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE TYPE WRITTEN COPY OF THE ORDER IN I.A.9932/04.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.10462 OF 2005

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DATED THIS THE 5TH SEPTEMBER, 2007

J U D G M E N T

The grievance of the petitioner who was defendant in O.S.No.792 of 2004 is that the application filed by him as I.A.No.9932 of 2004 for accepting the written statement was dismissed by the learned Munsiff on the ground that the written statement is filed beyond the statutory period of 90 days.

2. The view of the learned Munsiff expressed in Ext.P1 impugned order cannot be correct, in view of the principles laid down by the Supreme Court in **Kailash v. Nanhku** (2005 (2) KLT 623). I set aside Ext.P1 and allow I.A.No.9932 of 2004 on condition that the petitioner pays a sum of Rs.1000/- by way of costs to the respondents-plaintiffs either directly or through their counsel appearing in this Court within a period of three weeks from today. Failing payment of costs as ordered above, the I.A. will stand dismissed and the impugned order will stand confirmed.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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